IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.338 OF 2006
IN
SUIT NO.316 OF 2006

Ms.Shobha M.Kapadia ..Plaintiff

Vs.

Mahendra V.Kapadia ..Defendant

Ms.R.P.Safari for the plaintiff

Mr.U.S.Samudrala for the defendant

CORAM : S.U.KAMDAR, J
DATED : 13TH FEBRUARY, 2006

P.C.:

1. The learned counsel for the defendant gives an undertaking to this court that he will not alienate, encumber or create any third party rights or part with possession of the suit godown at 23/25, Dadyseth Agiary Lane, 2nd Fanaswadi, Mumbai 2 and any of the partnership assets and / or books of accounts of partnership firm.

2. He further undertakes that he will file audited accounts within two months of the completion of financial year. First such accounts

should be filed on or before 1.6.06. Copy thereof will be furnished to the plaintiff and one copy in sealed envelope will be filed with the Prothonotary & Senior Master, High Court, Mumbai. The learned counsel for the defendant further states that w.e.f.10.3.06 defendant will pay to the plaintiff a sum of Rs.10,000 p.m. The said amount will be subject to final accounts as arrived at on the dissolution of the firm. The said amount will be paid till further orders and / or final decision in the arbitration proceeding by and between the parties .

3. Both the parties agree that the difference and dispute arising in the present suit in partnership agreement be referred to arbitration. Accordingly, Retired Judge of this court, Mr.H.Suresh is appointed as Arbitrator who shall enter upon the reference and after giving an opportunity to the parties, decide the matter in accordance with the Arbitration and Conciliation Act, 1996. Interim order passed and / or undertaking given by the defendant will continue till the hearing and final disposal of the

proceeding before the Arbitrator. Notice of Motion as well as suit both are disposed of in terms of the aforesaid order and the rights of the parties will be governed under the provisions of Arbitration and Conciliation Act, 1996.